

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

CIVIL ACTION NO. _____

)
LUCIEN H. GROLEAU,)
)
Plaintiff,)
)
v.)
)
AMERICAN EXPRESS FINANCIAL)
ADVISORS, INC., SMITH, SWEENEY)
& ASSOCIATES, INC., PETER H. SMITH)
and JEREMY SWEENEY,)
)
Defendants)
)

**NOTICE OF REMOVAL OF CIVIL ACTION
FROM STATE COURT TO THE UNITED STATES DISTRICT COURT**

Defendants American Express Financial Advisors, Inc. (n/k/a Ameriprise Financial Services, Inc.), Smith, Sweeney & Associates, Inc., Peter H. Smith and Jeremy Sweeney through their undersigned attorney, hereby file this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, to remove the above-captioned Action, now pending in the Belknap County Superior Court. As grounds for the removal, Defendants state as follows:

1. The plaintiff commenced an action in the Superior Court of Belknap County, New Hampshire on or about April 28, 2010.
2. In the action initiated by Plaintiff Lucien H. Groleau, he has petitioned the court to compel the parties to arbitrate a dispute. The plaintiff previously filed a Writ of Summons dated July 23, 2004 in the Belknap County Superior Court seeking to recover money damages in excess of \$75,000 arising out of the Defendants' services as his financial advisor. In September, 2004, the defendants removed that action to the United States District Court for the District of

New Hampshire. That federal action, No. 04-cv-332-JD, was later stayed pending arbitration and was ultimately dismissed by Judge Joseph A. DiClerico, Jr. by Procedural Order dated August 24, 2006. The parties never arbitrated the dispute.

3. The Plaintiff is a citizen of New Hampshire and the Defendants are citizens of Minnesota and of Tennessee. Based upon his previous demands, Defendants are informed and believe that Plaintiff seeks damages in excess of \$75,000.00.

4. The Action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 and is one which may be removed to the District Court by the Defendant pursuant to the provisions of 28 U.S.C. § 1441.

5. This Notice is filed within thirty (30) days after Defendants received copies of the Plaintiff's Petition for Specific Performance.

6. Copies of all process, pleadings and orders served by and upon Defendants in the State Court action are attached and filed herewith as Exhibit A.

7. The defendants have provided notice of this removal to all parties and to the State Court.

WHEREFORE, Defendants request that the action filed in the Belknap County Superior Court be removed to this Court.

Respectfully submitted,
AMERICAN EXPRESS FINANCIAL ADVISORS,
INC. (n/k/a AMERIPRISE FINANCIAL
SERVICES, INC.), SMITH, SWEENEY &
ASSOCIATES, INC., PETER H. SMITH and
JEREMY SWEENEY,
By their attorneys,
BOWDITCH & DEWEY, LLP

BY: /s/ James M. Callahan

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Date: May 13, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this date, I have mailed a copy of this Notice of Removal to the following:

James C. Wheat, Esquire
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101

Civil Clerk
Belknap County Superior Court
64 Court Street
Laconia, NH 03246

/s/ James M. Callahan
James M. Callahan